

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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BRIAN K. CAMPBELL,

Plaintiff,

v.

STATE OF NEVADA et al.,

Defendants.

Case No. 3:15-cv-00171-MMD-VPC

ORDER

This action is a *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983 by a state prisoner. On July 21, 2015, the Court issued an order dismissing the complaint in its entirety with leave to amend and directed Plaintiff to file an amended complaint within 45 days from the date of entry of that order. (Dkt. no. 5 at 5.) On August 13, 2015, the Court held a hearing on Plaintiff's motion for appointment of counsel. (Dkt. no. 8.) The Court denied the motion for appointment of counsel and directed Plaintiff to file his amended complaint on or before December 3, 2015. (*Id.* at 1.) Plaintiff has not filed an amended complaint or otherwise responded to the Court's order.

District courts have the inherent power to control their dockets and "[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal" of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir.

1 1992) (dismissal for failure to comply with an order requiring amendment of complaint);  
2 *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to comply  
3 with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v.*  
4 *U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply  
5 with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal  
6 for lack of prosecution and failure to comply with local rules).

7 In determining whether to dismiss an action for lack of prosecution, failure to  
8 obey a court order, or failure to comply with local rules, the court must consider several  
9 factors: (1) the public's interest in expeditious resolution of litigation; (2) the court's need  
10 to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy  
11 favoring disposition of cases on their merits; and (5) the availability of less drastic  
12 alternatives. *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*,  
13 833 F.2d at 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

14 In the instant case, the Court finds that the first two factors, the public's interest in  
15 expeditiously resolving this litigation and the Court's interest in managing the docket,  
16 weigh in favor of dismissal. The third factor, risk of prejudice to Defendants, also weighs  
17 in favor of dismissal, since a presumption of injury arises from the occurrence of  
18 unreasonable delay in filing a pleading ordered by the court or prosecuting an action.  
19 See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor — public  
20 policy favoring disposition of cases on their merits — is greatly outweighed by the  
21 factors in favor of dismissal discussed herein. Finally, a court's warning to a party that  
22 his failure to obey the court's order will result in dismissal satisfies the "consideration of  
23 alternatives" requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33;  
24 *Henderson*, 779 F.2d at 1424. The Court's screening order requiring Plaintiff to file an  
25 amended complaint expressly stated: "It is further ordered that if Plaintiff fails to file an  
26 amended complaint curing the deficiencies outlined in this order, this action shall be  
27 dismissed without prejudice." (Dkt. no. 5 at 6.) Thus, Plaintiff had adequate warning that

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1 dismissal would result from his noncompliance with the Court's order to file an amended  
2 complaint.

3 It is therefore ordered that this action is dismissed without prejudice based on  
4 Plaintiff's failure to file an amended complaint in compliance with this Court's July 21,  
5 2015, order and August 13, 2015, minute order.

6 It is further ordered that the motion to proceed *in forma pauperis* (dkt. no. 4) is  
7 denied as moot.

8 It is further ordered that the Clerk of Court enter judgment accordingly.

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10 DATED THIS 14<sup>th</sup> day of December 2015.

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13 MIRANDA M. DU  
14 UNITED STATES DISTRICT JUDGE  
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